THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 24358 of 1998

-

20-06-2007

Between:

The Depot Manager,
APSRTC, Narayankhed Depot,
Medak District.

... Petitioner

And

S.H. Ahmed, Ex-Conductor,
Alladurg, Medak District and another.

... Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.24358 of 1998

Oral Order:

In this Writ Petition, the A.P. State Road Transport Corporation assails the award dated 3.2.1997 of the Labour Court-II, Hyderabad in I.D.No.98 of 1995. By the said award, the petitioner-Management of the Corporation was directed by the Labour Court to reinstate the 1st respondent-workman into service with all benefits including continuity of service but without backwages.

In a domestic inquiry, the 1st respondent was charged on five counts. Charges 1 and 2 relate to re-issue of two used tickets of the denomination of Rs.8.50 and Rs.6.00, which were already utilized in the up journey. Charges 3 and 4 relate to misbehaving with the checking officials while checking was taking place, instigating the passengers and preventing the officials from completing the checking formalities and forcibly snatching the tickets (constituting charges 1 and 2) from the checking officials and tearing them into pieces to destroy the evidence. The fifth charge is that he threatened to kill the checking officials if he were placed under suspension.

After a due process of domestic inquiry, the 1st respondent was visited with the penalty of removal from service. He preferred a departmental review. Having failed to secure redress in the departmental fora, the petitioner lodged a claim under Section 2-A(2) of the Industrial Disputes Act, 1947 assailing the order of removal.

In the award, the Labour Court found that the misconduct of the first respondent in respect of all the five charges was duly established at the domestic enquiry and there was no infirmity in the conclusion of the authority as to the 1st respondent's guilt. However, the Labour Court held:

> "..this Court by taking into consideration the totality of the facts and circumstances and having due regard to the nature of duties and nature of charges and the plea made by the petitioner and in view of the recent decisions of our High Court namely 1994(1) ALT 208 i.e. P. BALACHANDRA REDDY'S CASE and 1996(1) ALD 516 (DB) i.e. Y.R. Shetti's case this court finds that though the findings of the enquiry officer become unassailable still the punishment of removal is excessive, disproportionate, unjustified and requiring modification directing to reinstate the petitioner with continuity of service etc., but without any backwages in the given set of circumstances. Thus the point is found accordingly in favour of the petitioner."

Consequent on recording the above finding, the Labour Court set aside the orders of removal and directed reinstatement of the 1st respondent into service with other benefits but without backwages.

There was evidence in the domestic inquiry, which established the guilt of the 1st respondent in respect of the five charges levelld against him. Charges 1 and 2 relate to serious financial irregularity. Charges 3 and 4 would also constitute grave misconduct as he mis-behaved with the checking officials by snatching the tickets and destroying the evidence. The fifth charge pertains to a threat administered by the 1st respondent to the checking officials. As all the above charges, which are serious in nature, were validly established during the domestic inquiry, there was no legitimate reason for the conclusion by the Labour Court that the punishment of removal from service is disproportionate to the gravity of the charges established. The conclusion of the Labour Court is perverse on this count. The award is unsustainable which is accordingly set aside. The punishment-penalty of removal from service imposed on the 1st respondent (workman) by the management is sustained. The Writ Petition is accordingly allowed. No costs.

_____

20th June, 2007 GODA RAGHURAM, J

vtv

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.24358 of 1998

20th June, 2007